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10 JOSE ONTIVEROS,

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12 Plaintiff,

NO. CIV. S-08-567 LKK/DAD

13 v.

O R D E R14 ROBERT ZAMORA and ZAMORA
15 AUTOMOTIVE GROUP (form
16 unknown),

Defendants.

_____ /

17 On July 11, 2010, plaintiff filed a motion for class
18 certification. Along with this motion plaintiff filed an ex parte
19 application to file exhibits to plaintiff's declaration under seal.
20 ECF No. 50. There is a strong presumption in favor of public access
21 to documents filed in connection with dispositive motions, and this
22 presumption weighs against sealing such documents. Kamakana v. City
23 & County of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). Courts
24 may treat motions for class certification as dispositive "where a
25 denial of class status mean that the stakes are too low for the
26 named plaintiffs to continue the matter, or where the grant of

1 class status raises the cost and stakes of the litigation so
2 substantially that a rational defendant would feel irresistible
3 pressure to settle." Prado-Steiman v. Bush, F.3d 1266, 1274 (11th
4 Cir. 2000); see also Chamberlan v. Ford Motor Co., 402 F.3d 952,
5 957 (9th Cir. 2005) (adopting Prado-Steiman's approach). In the
6 context of a dispositive motion, "the district court must base its
7 decision [to seal materials] on a compelling reason and articulate
8 the factual basis for its ruling, without relying on hypothesis or
9 conjecture." Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d
10 1122, 1135 (9th Cir. 2003).

11 The court tentatively GRANTS plaintiffs' application.
12 Plaintiffs are instructed to file Exhibits 1, 2, 3, and 4 to the
13 Declaration of Jose Ontiveros under seal within seven (7) days of
14 the issuance of this order. Plaintiffs are cautioned, however, that
15 this sealing is tentative. Kamakana, 447 F.3d at 1186. The court
16 will revisit whether these documents should be permanently sealed
17 at a later time, when it is possible to perform the fact specific
18 analysis required by Foltz.

19 IT IS SO ORDERED.¹

20 DATED: August 27, 2010.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

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¹ The court notes that it recently stayed proceedings in this case. The stay remains in effect.